

BROWARD OFFICE OF THE INSPECTOR GENERAL



ETHICS COMPLIANCE REVIEW

**OIG 13-006
JULY 2, 2013**

Filing of Required Ethics Training Certifications



BROWARD OFFICE OF THE INSPECTOR GENERAL

OIG ETHICS COMPLIANCE REVIEW

RE: *FILING OF REQUIRED ETHICS TRAINING CERTIFICATIONS*

SUMMARY

The Broward Office of the Inspector General (OIG) conducted this review between March and June 2013 to determine whether 157 current Broward County elected officials who held office in 2012 filed their ethics training certifications as required by the Broward Code of Ethics for Elected Officials (the Ethics Code).

As we did in our September 2012 review of internet posting of required financial disclosure forms (OIG 12-015), the OIG contacted those officials whose Ethics Code compliance we could not confirm. We communicated the training and certification requirements and worked with municipal elected officials, clerks, and attorneys to bring those officeholders into compliance. Thereafter, we determined that 152 current elected officials complied with the 2012 training and filing requirements.¹ Despite our efforts, as of the release of this memorandum, we have good cause to believe that three current elected officials have failed to obtain or compensate for the requisite training.²

Finally, our review revealed that the current process for elected officials to obtain advisory opinions under the Ethics Code has resulted in a disparity in standards applied to the elected officials in the County.

RELEVANT GOVERNING AUTHORITIES AND BACKGROUND

Section 1-19 of the Broward County Code of Ordinances, Code of Ethics for Elected Officials

Section 1-19(d)(1) of the Ethics Code requires every new County and municipal elected official to complete four or more hours of training in public service ethics, public records, and Sunshine (open meetings) law within 120 days of taking office. Section 1-19(d)(2) requires every County and municipal elected official to complete eight hours of continuing education in public service ethics on an annual basis. Both provisions also require the official to file with his or her chief administrative official or municipal clerk, as applicable, a certification that the training requirement was completed.

The Ethics Code became applicable to municipal elected officials on January 2, 2012. Accordingly, this is the first review for compliance with the requirement that Broward's elected officials timely file their certification forms with their governmental entities.

¹ This review was limited to the issue of whether certifications were timely filed and does not extend to a review of their substance beyond declarations that the minimum ethics training requirements were met.

² We decline to find good cause for one official who certified he completed sixteen hours after our inquiry began, and we are deferring finding good cause regarding an official who is suspended. See Footnote 6, below.

BROWARD OFFICE OF THE INSPECTOR GENERAL

OIG ETHICS COMPLIANCE REVIEW RE: *FILING OF REQUIRED ETHICS TRAINING CERTIFICATIONS*

REVIEW

Between March and May 2013, the OIG conducted a review of publicly available data and documents supplied by municipalities to determine if elected officials were in compliance with the training provisions of the Ethics Code.³ The OIG identified twenty-four officials in office in 2012 whose certifications were not posted on the internet or confirmed as filed by municipal officials. We then worked with municipal clerks, through whom we received nine more certifications.⁴

In late May, the OIG sent notices to fifteen officeholders whose certifications could not be confirmed. In its communications, the OIG informed those officials that a failure to attend or participate in the required training and to ensure that the certifications were on file may constitute violations of the Ethics Code. The OIG also informed those officials that in order to avoid further action, they should report compliance or exhibit a good faith effort to compensate for any failures to meet the Ethics Code's training and filing requirements. OIG staff proceeded to work with municipal officials, including elected officials, clerks, and attorneys, to assist them in fulfilling this provision of the Ethics Code. After our contact, twelve more certificates were confirmed to be filed: some office holders had already provided their clerks with their certifications, and some executed certifications after having been prompted by our inquiry.

Ultimately, the OIG determined that there is good cause to believe that three elected officials failed to comply with the training requirements of the Ethics Code altogether.⁵ The OIG has declined to find good cause in the case of one official who demonstrated a good faith effort to comply by certifying he took sixteen hours of ethics training since being contacted by the OIG. We defer finding good cause on another official who is presently suspended from office.⁶

Finally, our compliance review has documented a disparity in the manner in which the Ethics Code is applied to elected officials. Because the term "annual" is not defined in the Ethics Code, numerous elected officials have sought opinions from their local attorneys pursuant to Section 1-19(c)(8), asking for a definition of the reporting period. Local government attorneys have issued varying interpretations of the "annual" requirement, resulting in inconsistent reporting periods. Upon noting the inconsistencies in the interpretations, in early 2013, the OIG commenced communications with Broward's local government attorneys regarding ethics training and certification requirements, culminating in the public release of our "Ethics Handbook: An Internal Guide for Investigations Pursuant to the Broward Code of Ethics" in March of 2013. In an effort to encourage transparency and consistency, that handbook specifies that the OIG's annual review of training certificates will

³ While the Code does not require that training certifications be "filed for public inspection," that is, available on searchable internet databases, the majority of Broward's entities have elected to post the certifications on their websites. Those entities are: Broward County, Coconut Creek, Cooper City, Dania Beach, Davie, Deerfield Beach, Hallandale Beach, Hillsboro Beach, Hollywood, Lauderdale-By-The-Sea, Lauderhill, Lighthouse Point, Margate, Miramar, North Lauderdale, Oakland Park, Parkland, Pembroke Park, Pembroke Pines, Pompano Beach, Sunrise, Tamarac, Weston, and Wilton Manors.

⁴ This figure includes two certifications we received from a city attorney in June, after we e-mailed two officials whose clerk was not contacted.

⁵ We note that one elected official's certification, for January 2, 2012, to November 15, 2012, reflected just seven hours of public service ethics training. We decline to report this as out of compliance, as the official's entity's attorney has opined pursuant to Section 1-19(c)(8) that his reporting cycle is the twelve months following his election anniversary and that completing a pro-rated portion of the eight hours of training fulfills the Code's "annual" requirement.

⁶ The official, whom the Governor suspended in April 2013, certified six hours of ethics training for calendar year 2012, two hours short of the annual requirement. We defer finding good cause that he is out of compliance, pending resolution of a federal criminal prosecution in which he has been charged with bribery.

BROWARD OFFICE OF THE INSPECTOR GENERAL

OIG ETHICS COMPLIANCE REVIEW RE: *FILING OF REQUIRED ETHICS TRAINING CERTIFICATIONS*

begin after February 15th for the preceding calendar year. Ultimately, most elected officials within Broward filed annual training certificates that covered the 2012 calendar year. Nonetheless, the OIG is concerned that, even in this most basic component, the lack of specificity and the mechanism for advisory opinions has resulted in an uneven application of the Ethics Code.⁷

CONCLUSION

We are heartened to report that ninety-seven percent of the current elected officials in Broward County who were in office in 2012 are now in compliance with their training requirements under the Ethics Code.

Unfortunately, we have good cause to believe that three elected officials have failed in their obligation to achieve and report to the training standards of the Code. The OIG will commence an investigation into these failures and if appropriate, following our investigation's findings, we will proceed to enforcement efforts under our authority and the mandate established by Section 12.01 of the Broward County Charter.

⁷ See Footnote 5.